

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

James Sharkey,
 Plaintiff

Case No.: 2:20-cv-00397-JAD-BNW

v.

Order Dismissing Case

Nevada Department of Corrections et al.,
 Defendant

Plaintiff James Sharkey brings this civil-rights case under § 1983 for events he alleges occurred during his incarceration at Southern Desert Correctional Center.¹ On July 9, 2021, the magistrate judge ordered Sharkey to file an updated address with the court by August 6, 2021.² The magistrate judge expressly warned him that his failure to timely comply with the order would result in the dismissal of this case.³ The deadline has passed, and Sharkey has not filed an updated address.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁴ A court may dismiss an action with prejudice based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.⁵ In determining whether to

¹ ECF No. 6 (complaint).

² ECF No. 8 (order).

³ *Id.*

⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
 2 local rules, the court must consider several factors: (1) the public's interest in expeditious
 3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
 4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
 5 availability of less drastic alternatives.⁶

6 I find that the first two factors—the public's interest in expeditiously resolving the
 7 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
 8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
 9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
 10 prosecuting an action.⁷ The fourth factor is greatly outweighed by the factors in favor of
 11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
 12 dismissal satisfies the consideration-of-alternatives requirement.⁸ Sharkey was warned that his
 13 case would be dismissed without prejudice if he failed to update his address by August 6, 2021.⁹
 14 So, Sharkey had adequate warning that his failure to update his address would result in this
 15 case's dismissal.

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 20 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

21 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

22 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).


23 ⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁹ ECF No. 8 (order).

1 IT IS THEREFORE ORDERED that **this action is DISMISSED** without prejudice based
2 on Sharkey's failure to file an updated address in compliance with this court's July 9, 2021,
3 order; and

4 The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS
5 CASE.

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7 Dated: August 14, 2021

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U.S. District Judge Jennifer A. Dorsey